

# OBERMAYER

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January 3, 2020

**VIA ECF**

The Honorable Laura Taylor Swain

United States District Court

Southern District of New York

500 Pearl Street

New York, New York 10007

USDC SDNY

DOCUMENT

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**MEMO ENDORSED**

**RE: Rodriguez v. Newmark & Company Real Estate, Inc. et al**  
**Docket No. 1:19 Civ. 9607 (LTS)**

Dear Judge Swain,

We represent the Defendant Newmark & Company Real Estate, Inc. ("Newmark") in the above matter.

As the Court is aware, this matter was removed from the Supreme Court of New York State and currently pending are Defendants' Motions to Dismiss or, in the alternative to stay and compel arbitration (Doc. 5, 27), and Plaintiff's Motion to Remand (Doc. 17).

An Initial Conference is currently scheduled for January 10, 2020. Newmark respectfully requests that this Court adjourn the Initial Conference until after a decision is rendered on either or both of the above-referenced motions. In the alternative, Newmark requests that, if the conference is not adjourned, the time to submit a Preliminary Pre-Trial Statement be extended until after a decision is rendered on the motions.

The Motions to Dismiss assert that the Plaintiff's claims are governed by a Collective Bargaining Agreement ("CBA") and, thus, must be arbitrated. The Motion to Remand asserts that the claims are not covered by the CBA and, thus, this Court does not have jurisdiction and the case should be remanded to state court. Presumably, if this Court agrees with the Defendants, the case will be dismissed or stayed; and if the Court agrees with Plaintiff, the case will be remanded to state court. Thus, it would appear unlikely that this case will continue to be litigated in this forum past the decisions on the pending motions.

Therefore, Newmark respectfully requests that the Initial Conference be adjourned until after a decision is rendered on the Motions to Dismiss and/or Motion to Remand. In the alternative, Newmark requests that, if the conference is not adjourned, the time to submit a

Preliminary Pre-Trial Statement be extended until after decisions are rendered on the pending motions.


This is Newmark's first request for such a continuance and/or extension.

Plaintiff as well as Co-Defendants Musart Associates, LLC and GFP Real Estate LLC consent to this request.

In light of the pending motions, Newmark does not believe that this request will affect other deadlines in this case.

We thank the Court in advance for its time and consideration.

Respectfully submitted,

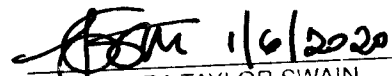


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Cc: Denise Bonnaig (via ECF)  
Maureen Stamp (via ECF)  
Ivan Smith (via ECF)

The conference is adjourned to June 15, 2020, at 10:30 AM as a control date, and the related consultation and submission requirements are suspended pending further order of the Court. DE # 45 resolved.

SO ORDERED:

  
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HON. LAURA TAYLOR SWAIN  
UNITED STATES DISTRICT JUDGE